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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,695	10/29/2003	Andrew C. Kesling	815-1057.C	5076

7590
LLOYD L. ZICKERT
79 West Monroe Street
Chicago, IL 60603

EXAMINER

BUMGARNER, MELBA N

ART UNIT	PAPER NUMBER
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3732

MAIL DATE	DELIVERY MODE
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07/27/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/695,695

Applicant(s)

KESLING, ANDREW C.

Examiner

Melba Bumgarner

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-17, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-17, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on April 25, 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,685,468 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 15, 17 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Collito (3,250,003). Collito discloses an orthodontic appliance and method including a metal body (column 3 line 73) having a buccal-labial archwire receiving side and a lingual side, and light permeable polymer resin bonding base molded onto the lingual side of the body such that at least a part of the body is embedded in the base and includes a peripheral lip overlapping part of the body (column 4 line 23). The orthodontic appliance is a bracket.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moschik (5,441,408) in view of Johnson (4,200,980). Moschik discloses an orthodontic appliance including a body 61 having a buccal-labial archwire receiving side and a lingual side, and cured resin bonding base 12 molded onto the lingual side of the body such that at least a part of the body is embedded in the base and includes a peripheral lip overlapping part of the body; however, Moschik shows appliance body of ceramic and not metallic. Johnson teaches an orthodontic appliance body 15 of metal. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have a metallic body on the orthodontic appliance of Moschik as in Johnson as it is known to have bracket body of material such as metal. Furthermore, the applicant's specification states the orthodontic body of the claimed invention can be of metal, ceramic, or plastic. The orthodontic appliance is a bracket.

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collito in view of Chikami (5,897,312). Collito discloses an orthodontic appliance that shows the limitations as described above and polymer resin base of plastic material such as a thermosetting or thermoplastic resin; however, Collito does not show plastic material of acrylic. Chikami teaches an orthodontic appliance comprising a resin base of acrylic (column 3 line 66). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the appliance of Collito to have resin base of acrylic resin shown in Chikami as an acceptable synthetic resin known in orthodontic brackets shown in view of Chikami.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moschik in view of Johnson and further in view of Chikami (5,897,312). Moschik and Johnson disclose an orthodontic appliance that shows the limitations as described above and polymer resin base of

plastic material; however, they do not show plastic material of acrylic. Chikami teaches an orthodontic appliance comprising a resin base of acrylic (column 3 line 66). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the appliance of Collito to have resin base of acrylic resin shown in Chikami as an acceptable synthetic resin known in orthodontic brackets shown in view of Chikami.

8. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Collito in view of Fugita (4,575,337). Collito discloses an orthodontic appliance that shows the limitations as described above; however, Collito does not show the base having an opening formed by a groove in the appliance body and the molded base. Fugita teaches an orthodontic appliance comprising a groove 10 in the appliance body formed to attach an auxiliary wire and a base (flange) to make at least one opening. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the appliance of Collito to have the opening of Fugita in order to be able to support an auxiliary wire in view of Fugita.

9. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moschik in view of Johnson and further in view of Fugita. Moschik and Johnson disclose a method and an orthodontic appliance that shows the limitations as described above; however, they do not show the base having an opening formed by a groove in the appliance body and the molded base. Fugita teaches an orthodontic appliance comprising a groove 10 in the appliance body formed to attach an auxiliary wire and a base (flange) to make at least one opening. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the orthodontic appliance to have the opening of Fugita in order to be able to support an auxiliary wire in view of Fugita.

Response to Arguments

10. Applicant's arguments with respect to the rejected claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 571-272-4709. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriquez can be reached at 571-272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Melba Bumgarner
Primary Examiner